

**REMARKS/ARGUMENTS**

The amendment is in response to the Final rejection dated December 3, 2009. Claims 1-65 and 67-96 have been canceled without prejudice, disclaimer and/or in view of the rejections. Claims 66 and 97-103 are pending in this application.

***Claim Rejections - 35 USC § 103***

On page 2 of the action, claims 66 and 97-103 are rejected under 35 USC 103(a) as being unpatentable over Contreras [4,015,630] in view of Taylor [6,601,609] and further in view of Hershman [2,725,072]. Applicant traverses this rejection.

Applicant respectfully submits that US Patent No. 6,601,609 issued to Taylor only qualifies as a 102(e) prior art reference and that the current application, Application No. 10/614,395, and Patent No. 6,601,609 were, at the time the invention of Application No. 10/614,395 was made, owned by Shane Taylor. As evidence, Applicant submits a Declaration by Shane Taylor.

Accordingly, pursuant to 103(c), US Patent No. 6,601,609 is disqualified as prior art. Therefore, a prima facie case of obviousness is not established and thus reconsideration and withdrawal of the rejection are respectfully requested.

**Conclusion**

In view of the foregoing amendments and remarks, it is respectfully submitted that this application is in condition for allowance or in better condition for appeal. Reconsideration of the application and allowance of the claims are respectfully requested. Also, although the present paper may include a combination of alterations to the application or claims, or characterizations of claim scope or referenced art, Applicants are not conceding that previously pending claims in this application are not patentable over the cited references. Rather, any alterations and/or characterizations are made to strictly facilitate prosecution of this application. As such, reviewers of this

or any parent, child, or related prosecution history shall not reasonably infer that Applicants have made any disclaimers or disavowals of any subject matter supported by the present application.

Applicants have submitted amendments and arguments believed to be sufficient to overcome all of the outstanding rejections. Consequently, Applicants have not advanced every argument for the allowability of the claims over the references of record. As such, Applicants do not acquiesce to any of the Examiner's statements or characterizations not specifically traversed. If the Examiner should have any remaining questions or objections, a telephone interview to discuss and resolve these issues is respectfully requested.

Respectfully submitted,

KAUTH, POMEROY, PECK & BAILEY LLP

By



Patrick Y. Ikehara  
Registration No. 42,681  
949.852.0000

PYI

Attachments

10927